

**Amendments to the Drawings:**

The attached sheet of drawings includes a change to Fig. 7. This sheet, which includes Figs. 1, 2, 7 and 8, replaces the original sheet including Figs. 1, 2, 7 and 8. In Fig. 7, reference numeral 27 has been added, as requested by the Patent Office, in order to comport the drawings with the specification. No new matter is added by this change.

Attachment: Replacement sheet

## **REMARKS**

Reconsideration of the above-identified patent application in view of the amendment above and the remarks below is respectfully requested.

Claims 21 and 40 have been canceled in this paper. Claims 1, 4-5, 7-8, 14, 18, 20, 22, 24-26, 28, 35 and 37-39 have been amended in this paper. No claims have been added in this paper. Therefore, claims 1-20 and 22-39 are pending and under active consideration.

The drawings stand objected to “as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference signs(s) mentioned in the description: 27.”

In response to the above, Applicant is submitting herewith a Replacement Sheet in which reference numeral 27 has been added to Fig. 7. As a result, the subject objection has been overcome and should be withdrawn.

The Abstract stands objected to “because it contains reference numerals from the drawings. Correction is required. See MPEP §608.01(b).”

Without acquiescing in the propriety of the objection, Applicant has amended the Abstract so that it no longer includes reference numerals. Accordingly, the objection has been overcome and should be withdrawn.

The disclosure stands objected to because “[t]he first line of the specification does not include a sentence acknowledging applicant’s claim for foreign priority. The examiner suggests amending the specification to include that information.”

Without acquiescing in the propriety of the objection, Applicant has amended the specification to include the information suggested. Accordingly, the objection has been overcome and should be withdrawn.

Claims 1, 4, 7, 8, 14, 18, 20, 25, 26/24/20, 28 and 35 stand objected to under 37 CFR 1.75(a), as failing to particularly point out and distinctly claim the subject matter which [applicant] regards as his invention or discovery.”

As best understood by Applicant, the subject objection appears to be predicated on various instances in the claims where antecedent basis is alleged to be lacking. Without acquiescing in the propriety of the objection, Applicant has amended the claims in question to obviate the objection. Therefore, for at least the above reasons, the objection should be withdrawn.

Claim 40 stands objected to under 37 CFR 1.75(d)(1) “as failing to conform to the invention as set forth in the remainder of the specification.”

Without acquiescing in the propriety of the objection, Applicant notes that claim 40 has been canceled in this paper. Therefore, the objection is moot and should be withdrawn.

Claim 28 stands objected to under 37 CFR 1.75(c) “as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim.”

Without acquiescing in the propriety of the objection, Applicant notes that claim 28 has been amended in this paper so that it is no longer a multiple dependent claim. Therefore, the rejection has been rendered moot and should be withdrawn.

Claims 5 and 22 stand rejected under 35 U.S.C. 112, second paragraph, “as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.” In support of the rejection, the Patent Office states the following:

Claim 5 recites the limitation “the latter” in line 3. It is unclear what this is referring to. Looking back to claim 1, “the latter” could be referring to the “body fluid” in line 3 or the “container” in line 3. Further clarification is required. For the purposes of examination, the following will be assumed: --the ~~latter~~ container--.

Regarding claim 22, the phrase “for example” renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d). Therefore, the limitation “for example ‘red clots’ and ‘white clots’” will be given no weight for the purpose of examination.

Without acquiescing in the propriety of the rejection, Applicant has amended claim 5 to replace “latter” with “container” and has amended claim 22 to delete “for example.” Therefore, the rejection is moot and should be withdrawn.

Claims 37-40 stand rejected under 35 U.S.C. 101 “because the claimed invention is directed to non-statutory subject matter.” As best understood by Applicant, the basis for the rejection appears to be that the claims do not define a computer-readable medium or a computer-readable memory. To overcome the rejection, the Patent Office “suggests amending the claims to embody the program on ‘computer-readable medium’ or equivalent.”

Without acquiescing in the propriety of the rejection, Applicant notes that claim 40 has been canceled and that claims 37-39 have been amended to recite a “computer readable storage medium.” Therefore, for at least the above reasons, the rejection has been overcome and should be withdrawn.

The instant claims have been rejected in the following art rejections: (1) claims 1-6, 11 and 31-39 being rejected under 35 U.S.C. 102(b) “as being anticipated by Watson et al. (WO 99/28724)”; (2) claims 1, 11 and 16 being rejected under 35 U.S.C. 102(b) “as being anticipated by Itsuzaki et al. (US 5,763,265)”; (3) claims 7-9 being rejected under 35 U.S.C. 103(a) “as being unpatentable over the combination of Watson et al. and Michelotti et al. (US 5,755,335)”; (4) claim 10 being rejected under 35 U.S.C. 103(a) “as being unpatentable over the combination of Watson et al. and Schemmel et al (US 6,175,646)”; (5) claims 12 and 18 being rejected under 35 U.S.C. 103(a) “as being unpatentable over Itsuzaki et al.”; (6) claims 13 and 14 being rejected under 35 U.S.C. 103(a) “as

being unpatentable over the combination of Watson et al. and Itsuzaki et al.”; (7) claim 15 being rejected under 35 U.S.C. 103(a) “as being unpatentable over the combination of Watson et al. and Minden (US 6,342,143)”;

(8) claims 17 and 19 being rejected under 35 U.S.C. 103(a) “as being unpatentable over the combination of Itsuzaki et al. and Watson et al.”;

(9) claims 20 and 24/20 being rejected under 35 U.S.C. 103(a) “as being unpatentable over the combination of Itsuzaki et al. and Hsu (US 5,640,468)”;

(10) claims 21, 24/21 and 27 being rejected under 35 U.S.C. 103(a) “as being unpatentable over the combination of Itsuzaki et al. and Hsu as applied to claim 20 above, and further in view of Rowe et al. (US 7,126,682)”;

(11) claim 22 being rejected under 35 U.S.C. 103(a) “as being unpatentable over the combination of Itsuzaki et al., Hsu and Rowe et al. as applied to claim 21 above, and further in view of Yamazaki et al. (US 5,880,835)”;

(12) claim 23 being rejected under 35 U.S.C. 103(a) “as being unpatentable over the combination of Itsuzaki et al. and Hsu as applied to claim 20 above, and further in view of Watson et al.”;

(13) claims 25, 29 and 30 being rejected under 35 U.S.C. 103(a) “as being unpatentable over the combination of Watson et al. and Rowe et al.”;

(14) claim 26/24/20 being rejected under 35 U.S.C. 103(a) “as being unpatentable over the combination of Itsuzaki et al. and Hsu as applied to claim 24/20 above, and further in view of Bills (US 6,366,319)”;

(15) claim 26/24/21 being rejected under 35 U.S.C. 103(a) “as being unpatentable over the combination of Itsuzaki et al., Hsu and Rowe et al. as applied to claim 24/21 above, and further in view of common knowledge as evidenced by Bills”;

and (16) claim 40 being rejected under 35 U.S.C. 103(a) “as being unpatentable over Watson et al.”

Insofar as the above art rejections relate to claims 21 and 40, the rejections are moot in view of the cancellation of claims 21 and 40 in this paper. Insofar as the above art rejections relate to claims 1-20 and 22-39, Applicants respectfully traverse the rejections.

At the outset, Applicant notes that claim 1 has been amended in this paper to include the features of canceled claim 21. As a result, claim 1 now recites “[a] method for analyzing body fluids, characterized in that an image recording device is used to produce at least one image of a body fluid located in a container that is analyzed by means of image processing software, wherein in order to detect solid particles in the serum and/or plasma, the region corresponding to the serum is compared with stored color values or reference samples and classified as ‘clear’ or ‘not clear.’”

Thus amended, claim 1 is patentable over the applied references. Watson (WO 99/28724) only discloses a sample distribution system. The only image analyzing structure 300 is shown in Figs. 8A and 8B. It comprises a digital camera 22, a bar code reader 20, and only one light source 142. This image analyzing structure serves for identification of shape and color of the container’s caps, the bar code labels sticking on the containers and the height of the samples in the containers, but not the quality of the samples.

Itsuzaki (US 5,736,265) discloses a method to define the amount of blood serum in a sample in order to extract only blood serum for further analysis (see column 1, lines 44-50, column 1, line 62 to column 2, line 8). Itsuzaki does not disclose a method to detect the quality of the samples in the containers.

Michelotti (US 5,755,335) merely discloses a method and apparatus for inspecting a label applied to a container. Michelotti does not disclose a method and apparatus for detecting the quality of a sample.

Schemmel (US 6,175,646) discloses a method and apparatus for detecting defects on silicon dies on a silicon wafer. This technical field is completely different from that of the present invention and needs equipment completely different from the present apparatus. Therefore, a person of

ordinary skill in the art would not have looked to this document in order to explore how to measure the quality of body fluid samples.

Minden (US 6,342,143) discloses a sample retrieval method and apparatus comprising cutting members, i.e. for use with solid samples. The imager referred to by the Patent Office is used for cutting out the sample from its carrier (see column 2, lines 39 to 56). This apparatus has nothing in common with the method and apparatus according to the present invention.

Hsu (US 5,640,468) discloses a geographical information system processor including geographical data. This technical field is completely different from that of the present invention and needs equipment completely different from the present apparatus. Therefore, a person of ordinary skill in the art would not have looked to this document in order to explore how to measure the quality of body fluid samples.

Rowe (US 7,126,682) discloses a spectroscopic system and spectrometers to detect and measure wavelengths of electromagnetic waves. This technical field is completely different from that of the present invention and needs equipment completely different from the present apparatus. Therefore, a person of ordinary skill in the art would not have looked to this document in order to explore how to measure the quality of body fluid samples.

Yamazaki (US 5,880,835) discloses a method and apparatus for investigating particles in a fluid flowing in a flow cell comprising a particle detector. The Yamazaki method and apparatus is not suitable for measuring the quality of a body fluid located in a container.

Bills (US 6,366,319) discloses a system for digital color imaging used in digital video cameras in order to replace conventional film cameras. Bills does not disclose a method and apparatus to measure the quality of body fluids.

Accordingly, for at least the above reasons, the subject rejections should be withdrawn.

It is respectfully submitted that the present application is now in condition for allowance.

Prompt and favorable action is earnestly solicited.

If there are any fees due in connection with the filing of this paper that are not accounted for, the Examiner is authorized to charge the fees to our Deposit Account No. 11-1755. If a fee is required for an extension of time under 37 C.F.R. 1.136 that is not accounted for already, such an extension of time is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

Kriegsman & Kriegsman

By: 

Edward M. Kriegsman  
Reg. No. 33,529  
30 Turnpike Road, Suite 9  
Southborough, MA 01772  
(508) 481-3500

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on September 22, 2008

Edward M. Kriegsman  
Reg. No. 33,529

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